

Bendigo Hungry Jack's operator penalised \$46,200 over staff underpayments

The operator of a Hungry Jack's fast food outlet at Bendigo in Victoria's Goldfields region has been penalised \$46,200 after the Fair Work Ombudsman found it had been underpaying its 180-strong workforce for more than four years.

The Federal Magistrates Court found the company had underpaid 180 workers - mostly juniors, including some school-based apprentices - a total of \$104,946 between July, 2005 and December, 2009.

The largest individual underpayment was \$8218. Twenty-nine employees were underpaid more than \$1000.

The retail employees generally worked in customer service and food preparation roles and were variously employed on a full-time, part-time and casual basis.

Most of the underpayments were the result of the outlet's owners failing to provide the classification and pay-rate upgrades the employees were entitled to based on length of service.

This resulted in underpayment of the minimum hourly rate, overtime and public holiday penalty rates. The company also underpaid or failed to pay annual leave entitlements and a laundry allowance.

Federal Magistrate Hartnett said there was a need to "send a message to the community at large, and employers particularly, that the correct entitlements for employees must be paid and that steps must be taken by employers (of all sizes) to ascertain and comply with minimum entitlements."

Taking into account the fact that

- the outlet's owners had no "priors" recorded against it for previous similar conduct;
- that it had undertaken to voluntarily rectify all underpayments;
- that it had engaged a specialist industrial relations lawyer;
- and appointed a new payroll adviser,
- Federal Magistrate Hartnett imposed a penalty of 20 per cent of the applicable maximum of \$231,000.

Fair Work Ombudsman Nicholas Wilson said the penalty delivered by the Court is a reminder to employers, no matter how big or small, that underpayment of employees is a serious matter and it is important to check they are meeting their lawful obligations to staff.

"We expect those companies which employ significant numbers of young people to diligently exercise their workplace obligations and ensure staff receive their full and proper entitlements," he said.

Note: This prosecution is unrelated to an earlier Fair Work Ombudsman investigation and prosecution of Hungry Jack's Pty Ltd for underpaying 693 of its Tasmanian staff more than \$665,000. That case resulted in Hungry Jack's Pty Ltd being fined \$100,500 in 2011.